

IN THE DISTRICT COURT OF THE UNITED STATES
FOR THE MIDDLE DISTRICT OF ALABAMA
NORTHERN DIVISION

BERNETTA LASHAY WILLIS,)	
)	
Petitioner,)	
)	
v.)	Civil Action No. 2:09cv930-MEF
)	(WO)
UNITED STATES OF AMERICA,)	
)	
Respondent.)	

ORDER

Bernetta Lashay Willis has filed a *pro se* pleading styled as a “Motion to Waive Restitution” (Doc. No. 35), wherein she seeks release from her obligation to pay restitution under an order entered in her criminal case, Case No. 2:06cr71-MEF, based on her inability to pay. Willis’s pleading was originally docketed in her action challenging her conviction and sentence pursuant to 28 U.S.C. § 2255. However, 28 U.S.C. § 2255 is not a mechanism by which an order of restitution may be attacked or modified. *See Blaik v. United States*, 161 F.3d 1341, 1342 (11th Cir. 1998) (“[Section] 2255 cannot be utilized by a federal prisoner who challenges only the restitution portion of his sentence because § 2255 affords relief only to those prisoners who ‘claim [] the right to be released’ from custody.”)

Accordingly, the Clerk of this court is hereby DIRECTED to:

1. Docket Willis’s “Motion to Waive Restitution” in her criminal case, Case No. Case No. 2:06cr71-MEF, as a “*Motion under 18 U.S.C. § 3664(k) to Modify the Restitution Payment Schedule Based on Changed Economic Circumstances.*”

2. Strike the same motion from the instant case, Civil Action No. 2:09cv930-MEF.

Done this 18th day of August, 2011.

/s/Charles S. Coody
CHARLES S. COODY
UNITED STATES MAGISTRATE JUDGE